

# EXHIBIT H

## Nightingale Dawson, Elana (DC)

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**From:** Kristen Logan <KLogan@rothwellfigg.com>  
**Sent:** Tuesday, October 15, 2024 4:14 PM  
**To:** Nightingale Dawson, Elana (DC); Liu, Kevin (NY); ~Macris, Aaron; Inajemy@orrick.com; NewYorkTimes-Microsoft-FDBR@faegredrinker.com; OpenAICopyright@mofo.com; NewYorkTimes\_Microsoft\_OHS@orrick.com; #C-M OPENAI COPYRIGHT LITIGATION - LW TEAM; kvpoi@keker.com  
**Cc:** DailyNews-AI-RFEM  
**Subject:** RE: Daily News et al. v. Microsoft et al. - Case Number: 1:24-cv-03285-SHS - Expert Disclosure

Counsel,

I am writing to confirm that Plaintiffs are not withdrawing their request to disclose OpenAI's highly confidential documents to Dr. Baeza-Yates.

Best,  
Kristen



Kristen Logan (she/her)  
Associate  
Rothwell, Figg, Ernst & Manbeck, P.C.  
901 New York Avenue, N.W., Suite 900 East  
Washington, D.C. 20001  
Phone: 202-624-1591  
Fax: 202-783-6031

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**From:** Elana.NightingaleDawson@lw.com <Elana.NightingaleDawson@lw.com>  
**Sent:** Tuesday, October 15, 2024 4:01 PM  
**To:** Kristen Logan <KLogan@rothwellfigg.com>; Kevin.Liu@lw.com; Aaron.Macris@lw.com; Inajemy@orrick.com; NewYorkTimes-Microsoft-FDBR@faegredrinker.com; OpenAICopyright@mofo.com; NewYorkTimes\_Microsoft\_OHS@orrick.com; openaicopyrightlitigation.lwteam@lw.com; kvpoi@keker.com  
**Cc:** DailyNews-AI-RFEM <DailyNews-AI-RFEM@rothwellfigg.com>  
**Subject:** RE: Daily News et al. v. Microsoft et al. - Case Number: 1:24-cv-03285-SHS - Expert Disclosure

Counsel,

Thank you for this information. You have confirmed that Theodora.ai, a company founded and in part led by Dr. Baeza-Yates, is principally in the business of fine-tuning LLMs for commercial applications. Accordingly, disclosure of the highly confidential and sensitive documents OpenAI produces in this case relating to, for example, OpenAI's proprietary fine-tuning research raises a substantial risk that such information would then be used in connection with Dr. Baeza-Yates's own commercial enterprise. For these reasons, OpenAI maintains its objection.

If Plaintiffs do not withdraw their request to disclose OpenAI's highly confidential documents to Dr. Baeza-Yates, we will raise this issue with the Court and include this on the agenda the parties submit to the Court tomorrow.

Regards,  
Elana

**Elana Nightingale Dawson** (she/her/hers) | **LATHAM & WATKINS LLP**  
Tel: 202-637-2303 | Cell: 213-703-8628 | Fax: 202-637-2201

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**From:** Kristen Logan <[KLogan@rothwellfigg.com](mailto:KLogan@rothwellfigg.com)>  
**Sent:** Friday, October 11, 2024 8:56 PM  
**To:** Liu, Kevin (NY) <[Kevin.Liu@lw.com](mailto:Kevin.Liu@lw.com)>; Macris, Aaron (BN) <[Aaron.Macris@lw.com](mailto:Aaron.Macris@lw.com)>; [lnajemy@orrick.com](mailto:lnajemy@orrick.com);  
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<[openaicopyrightlitigation.lwteam@lw.com](mailto:openaicopyrightlitigation.lwteam@lw.com)>; [kvpoai@keker.com](mailto:kvpoai@keker.com)  
**Cc:** DailyNews-AI-RFEM <[DailyNews-AI-RFEM@rothwellfigg.com](mailto:DailyNews-AI-RFEM@rothwellfigg.com)>  
**Subject:** Re: Daily News et al. v. Microsoft et al. - Case Number: 1:24-cv-03285-SHS - Expert Disclosure

Counsel,

I am writing to follow up on our meet and confer yesterday regarding OpenAI's objection to disclosing confidential information to Dr. Baeza-Yates. On the call, OpenAI asked that we provide information on the foundation LLMs that Theodora.ai works with. Dr. Baeza-Yates confirmed that the only model Theodora.ai fine-tunes is the RoBERTa LLM.

Best,

Kristen



Kristen Logan (she/her)

Associate

Rothwell, Figg, Ernst & Manbeck, P.C.

901 New York Avenue, N.W., Suite 900 East

Washington, D.C. 20001

Phone: 202-624-1591

Fax: 202-783-6031

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**From:** [Kevin.Liu@lw.com](mailto:Kevin.Liu@lw.com) <[Kevin.Liu@lw.com](mailto:Kevin.Liu@lw.com)>  
**Sent:** Tuesday, October 8, 2024 2:50 PM  
**To:** Kristen Logan <[KLogan@rothwellfigg.com](mailto:KLogan@rothwellfigg.com)>; [Aaron.Macris@lw.com](mailto:Aaron.Macris@lw.com) <[Aaron.Macris@lw.com](mailto:Aaron.Macris@lw.com)>; [lnajemy@orrick.com](mailto:lnajemy@orrick.com) <[lnajemy@orrick.com](mailto:lnajemy@orrick.com)>; [NewYorkTimes-Microsoft-FDBR@faegredrinker.com](mailto:NewYorkTimes-Microsoft-FDBR@faegredrinker.com) <[NewYorkTimes-Microsoft-FDBR@faegredrinker.com](mailto:NewYorkTimes-Microsoft-FDBR@faegredrinker.com)>; [OpenAICopyright@mofo.com](mailto:OpenAICopyright@mofo.com) <[OpenAICopyright@mofo.com](mailto:OpenAICopyright@mofo.com)>; [NewYorkTimes\\_Microsoft\\_OHS@orrick.com](mailto:NewYorkTimes_Microsoft_OHS@orrick.com) <[NewYorkTimes\\_Microsoft\\_OHS@orrick.com](mailto:NewYorkTimes_Microsoft_OHS@orrick.com)>; [openaicopyrightlitigation.lwteam@lw.com](mailto:openaicopyrightlitigation.lwteam@lw.com) <[openaicopyrightlitigation.lwteam@lw.com](mailto:openaicopyrightlitigation.lwteam@lw.com)>; [kvpoi@keker.com](mailto:kvpoi@keker.com) <[kvpoi@keker.com](mailto:kvpoi@keker.com)>  
**Cc:** DailyNews-AI-RFEM <[DailyNews-AI-RFEM@rothwellfigg.com](mailto:DailyNews-AI-RFEM@rothwellfigg.com)>  
**Subject:** RE: Daily News et al. v. Microsoft et al. - Case Number: 1:24-cv-03285-SHS - Expert Disclosure

Counsel,

OpenAI is available to meet and confer on October 10 at 4:00 pm EST. We will circulate an invite shortly.

Thank you,  
Kevin

**Kevin Ran Liu\***  
Law Clerk  
*Pronouns: He/Him/His*

**LATHAM & WATKINS LLP**  
1271 Avenue of the Americas | New York, NY 10020  
D: +1.212.906.4744 | M: +1.917.714.6877

\*Not admitted to practice in any jurisdiction

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**From:** Kristen Logan <[KLogan@rothwellfigg.com](mailto:KLogan@rothwellfigg.com)>  
**Sent:** Monday, October 7, 2024 11:20 AM  
**To:** Macris, Aaron (BN) <[Aaron.Macris@lw.com](mailto:Aaron.Macris@lw.com)>; [lnajemy@orrick.com](mailto:lnajemy@orrick.com); [NewYorkTimes-Microsoft-FDBR@faegredrinker.com](mailto:NewYorkTimes-Microsoft-FDBR@faegredrinker.com); [NewYorkTimes\\_Microsoft\\_OHS@orrick.com](mailto:NewYorkTimes_Microsoft_OHS@orrick.com); [OpenAICopyright@mofo.com](mailto:OpenAICopyright@mofo.com); #C-M OPENAI COPYRIGHT LITIGATION - LW TEAM <[openaicopyrightlitigation.lwteam@lw.com](mailto:openaicopyrightlitigation.lwteam@lw.com)>; [kvpoi@keker.com](mailto:kvpoi@keker.com)  
**Cc:** DailyNews-AI-RFEM <[DailyNews-AI-RFEM@rothwellfigg.com](mailto:DailyNews-AI-RFEM@rothwellfigg.com)>  
**Subject:** RE: Daily News et al. v. Microsoft et al. - Case Number: 1:24-cv-03285-SHS - Expert Disclosure

Counsel,

Our availability to meet and confer is as follows:

10/8: 9am-Noon or 3-5pm ET  
10/9: 3pm-4pm ET  
10/10: 3pm-5pm ET

Best,  
Kristen



ROTHWELL FIGG

Kristen Logan (she/her)  
Associate  
Rothwell, Figg, Ernst & Manbeck, P.C.

901 New York Avenue, N.W., Suite 900 East  
Washington, D.C. 20001  
Phone: 202-624-1591  
Fax: 202-783-6031

---

**From:** [Aaron.Macris@lw.com](mailto:Aaron.Macris@lw.com) <[Aaron.Macris@lw.com](mailto:Aaron.Macris@lw.com)>

**Sent:** Monday, October 7, 2024 11:02 AM

**To:** Kristen Logan <[KLogan@rothwellfigg.com](mailto:KLogan@rothwellfigg.com)>; [lnajemy@orrick.com](mailto:lnajemy@orrick.com); [NewYorkTimes-Microsoft-FDBR@faegredrinker.com](mailto:NewYorkTimes-Microsoft-FDBR@faegredrinker.com); [NewYorkTimes\\_Microsoft\\_OHS@orrick.com](mailto:NewYorkTimes_Microsoft_OHS@orrick.com); [OpenAICopyright@mofo.com](mailto:OpenAICopyright@mofo.com); [openaicopyrightlitigation.lwteam@lw.com](mailto:openaicopyrightlitigation.lwteam@lw.com); [kvpoi@keker.com](mailto:kvpoi@keker.com)

**Cc:** DailyNews-AI-RFEM <[DailyNews-AI-RFEM@rothwellfigg.com](mailto:DailyNews-AI-RFEM@rothwellfigg.com)>

**Subject:** RE: Daily News et al. v. Microsoft et al. - Case Number: 1:24-cv-03285-SHS - Expert Disclosure

Counsel,

The window for objection was not triggered because of Plaintiffs' failure to "attach a copy of [Dr. Baeza-Yates's] current resume." Dkt. 127, ¶ 17. In any event, we maintain our objection to Dr. Baeza-Yates on the basis of this newly disclosed information. Theodora's website states that Dr. Baeza-Yates is not only the company's Co-Founder, but also its Chief Technology Officer. The website also states that the company uses "cutting-edge AI" to "uncover[] and eliminat[e] unconscious bias" for "managing reputational risk." Accordingly, there appears to be a significant risk of harm to OpenAI if OpenAI's highly confidential information is disclosed to Dr. Baeza-Yates. Please let us know when you are available to meet and confer about this.

Best,  
Aaron

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**From:** Kristen Logan <[KLogan@rothwellfigg.com](mailto:KLogan@rothwellfigg.com)>

**Sent:** Wednesday, October 2, 2024 10:49 AM

**To:** Macris, Aaron (BN) <[Aaron.Macris@lw.com](mailto:Aaron.Macris@lw.com)>; [lnajemy@orrick.com](mailto:lnajemy@orrick.com); [NewYorkTimes-Microsoft-FDBR@faegredrinker.com](mailto:NewYorkTimes-Microsoft-FDBR@faegredrinker.com); [NewYorkTimes\\_Microsoft\\_OHS@orrick.com](mailto:NewYorkTimes_Microsoft_OHS@orrick.com); [OpenAICopyright@mofo.com](mailto:OpenAICopyright@mofo.com); #C-M OPENAI COPYRIGHT LITIGATION - LW TEAM <[openaicopyrightlitigation.lwteam@lw.com](mailto:openaicopyrightlitigation.lwteam@lw.com)>; [kvpoi@keker.com](mailto:kvpoi@keker.com)

**Cc:** DailyNews-AI-RFEM <[DailyNews-AI-RFEM@rothwellfigg.com](mailto:DailyNews-AI-RFEM@rothwellfigg.com)>

**Subject:** RE: Daily News et al. v. Microsoft et al. - Case Number: 1:24-cv-03285-SHS - Expert Disclosure

Counsel,

These excerpts from Dr. Baeza-Yates' LinkedIn profile are summaries of the engagements listed in sections 6 and 8 of his CV. A couple of engagements had been inadvertently left out of the version of his CV that we sent last Wednesday. Attached to this email is an updated version of his CV that now includes these two engagements. The additions to Dr. Baeza-Yates' CV are limited to the following:

Section 6 – Professional and Entrepreneurship Experience

- Co-founder of Theodora.ai, a Chilean startup focused in document bias detection and mitigation since 2022.
- Consultant to the Inter American Development Bank since 2019.

For the avoidance of doubt, to the extent Defendants seek to object to Plaintiffs' disclosure of Dr. Baeza-Yates on any basis not related to the abovementioned engagements, Defendants' window to object to Plaintiffs' disclosure of Dr. Baeza Yates has lapsed.

Best,

Kristen



Kristen Logan (she/her)  
Associate  
Rothwell, Figg, Ernst & Manbeck, P.C.  
901 New York Avenue, N.W., Suite 900 East  
Washington, D.C. 20001  
Phone: 202-624-1591  
Fax: 202-783-6031

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**From:** [Aaron.Macris@lw.com](mailto:Aaron.Macris@lw.com) <[Aaron.Macris@lw.com](mailto:Aaron.Macris@lw.com)>  
**Sent:** Monday, September 30, 2024 7:16 PM  
**To:** Kristen Logan <[KLogan@rothwellfigg.com](mailto:KLogan@rothwellfigg.com)>; [lnajemy@orrick.com](mailto:lnajemy@orrick.com); [NewYorkTimes-Microsoft-FDBR@faegredrinker.com](mailto:NewYorkTimes-Microsoft-FDBR@faegredrinker.com); [NewYorkTimes\\_Microsoft\\_OHS@orrick.com](mailto:NewYorkTimes_Microsoft_OHS@orrick.com); [OpenAICopyright@mofo.com](mailto:OpenAICopyright@mofo.com); [openaicopyrightlitigation.lwteam@lw.com](mailto:openaicopyrightlitigation.lwteam@lw.com); [kvpoi@keker.com](mailto:kvpoi@keker.com)  
**Cc:** DailyNews-AI-RFEM <[DailyNews-AI-RFEM@rothwellfigg.com](mailto:DailyNews-AI-RFEM@rothwellfigg.com)>  
**Subject:** RE: Daily News et al. v. Microsoft et al. - Case Number: 1:24-cv-03285-SHS - Expert Disclosure

Counsel,

The CV provided for Dr. Baeza-Yates does not appear to be current, and your response to Microsoft's counsel below does not supply all the missing information. For example, Dr. Baeza-Yates's LinkedIn profile indicates that, from 2016 through the present, he has been both a "Consultant for several Internet companies and startups in responsible AI, data science and related topics" and a "Member of the technical advisory board of several companies, research laboratories or large research projects across the world," but the details of such engagements are absent from his resume. Would you please provide an updated CV that identifies these engagements and positions, as well as any other engagements missing from his CV, including engagements and positions that have terminated? Until Daily News provides his current resume, as required by the protective order, the window to object under the PO has not begun. However, for avoidance of doubt, OpenAI objects until it has had an opportunity to review Dr. Baeza-Yates's current resume.

Regards,  
Aaron

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**From:** Kristen Logan <[KLogan@rothwellfigg.com](mailto:KLogan@rothwellfigg.com)>  
**Sent:** Monday, September 30, 2024 9:36 AM  
**To:** Najemy, Laura <[lnajemy@orrick.com](mailto:lnajemy@orrick.com)>; #NewYorkTimes-Microsoft-FDBR <[NewYorkTimes-Microsoft-FDBR@faegredrinker.com](mailto:NewYorkTimes-Microsoft-FDBR@faegredrinker.com)>; NewYorkTimes\_Microsoft\_OHS <[NewYorkTimes\\_Microsoft\\_OHS@orrick.com](mailto:NewYorkTimes_Microsoft_OHS@orrick.com)>; OpenAICopyright <[OpenAICopyright@mofo.com](mailto:OpenAICopyright@mofo.com)>; #C-M OPENAI COPYRIGHT LITIGATION - LW TEAM <[openaicopyrightlitigation.lwteam@lw.com](mailto:openaicopyrightlitigation.lwteam@lw.com)>; KVP-OAI <[kvpoi@keker.com](mailto:kvpoi@keker.com)>  
**Cc:** DailyNews-AI-RFEM <[DailyNews-AI-RFEM@rothwellfigg.com](mailto:DailyNews-AI-RFEM@rothwellfigg.com)>  
**Subject:** RE: Daily News et al. v. Microsoft et al. - Case Number: 1:24-cv-03285-SHS - Expert Disclosure

Laura,

The only company that Dr. Baeza-Yates is currently consulting for is Hyundai.

Best,

Kristen



Kristen Logan (she/her)  
Associate  
Rothwell, Figg, Ernst & Manbeck, P.C.  
901 New York Avenue, N.W., Suite 900 East  
Washington, D.C. 20001  
Phone: 202-624-1591  
Fax: 202-783-6031

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**From:** Najemy, Laura <[lnajemy@orrick.com](mailto:lnajemy@orrick.com)>  
**Sent:** Friday, September 27, 2024 12:13 PM  
**To:** Kristen Logan <[KLogan@rothwellfigg.com](mailto:KLogan@rothwellfigg.com)>; #NewYorkTimes-Microsoft-FDBR <[NewYorkTimes-Microsoft-FDBR@faegredrinker.com](mailto:NewYorkTimes-Microsoft-FDBR@faegredrinker.com)>; NewYorkTimes\_Microsoft\_OHS <[NewYorkTimes\\_Microsoft\\_OHS@orrick.com](mailto:NewYorkTimes_Microsoft_OHS@orrick.com)>; OpenAICopyright <[OpenAICopyright@mofo.com](mailto:OpenAICopyright@mofo.com)>; [openaicopyrightlitigation.lwteam@lw.com](mailto:openaicopyrightlitigation.lwteam@lw.com); KVP-OAI <[kvpoi@keker.com](mailto:kvpoi@keker.com)>  
**Cc:** DailyNews-AI-RFEM <[DailyNews-AI-RFEM@rothwellfigg.com](mailto:DailyNews-AI-RFEM@rothwellfigg.com)>  
**Subject:** RE: Daily News et al. v. Microsoft et al. - Case Number: 1:24-cv-03285-SHS - Expert Disclosure


Kristen,

Dr. Baeza-Yates's LinkedIn profile lists that he is a consultant for "several Internet companies and startups in responsible AI, data science and related topics. Member of the technical advisory board of several companies, research laboratories or large research projects across the world." Similarly, his CV lists that he is a "Consultant for startups, companies, and venture capital in Brazil, Chile, Mexico, Spain, and USA."

Could you please provide us with more information regarding which specific companies he is consulting and/or advising for so that we may better assess whether any are competitors of Microsoft or OpenAI?

Thank you,  
Laura

**Laura B. Najemy**  
Partner

Orrick  
Boston   
T +1-617-880-1889  
M +1-413-478-6502  
[lnajemy@orrick.com](mailto:lnajemy@orrick.com)



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**From:** Kristen Logan <[KLogan@rothwellfigg.com](mailto:KLogan@rothwellfigg.com)>  
**Sent:** Wednesday, September 25, 2024 6:52 PM  
**To:** #NewYorkTimes-Microsoft-FDBR <[NewYorkTimes-Microsoft-FDBR@faegredrinker.com](mailto:NewYorkTimes-Microsoft-FDBR@faegredrinker.com)>; NewYorkTimes\_Microsoft\_OHS <[NewYorkTimes\\_Microsoft\\_OHS@orrick.com](mailto:NewYorkTimes_Microsoft_OHS@orrick.com)>; OpenAICopyright

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Cc: DailyNews-AI-RFEM <[DailyNews-AI-RFEM@rothwellfigg.com](mailto:DailyNews-AI-RFEM@rothwellfigg.com)>

Subject: Daily News et al. v. Microsoft et al. - Case Number: 1:24-cv-03285-SHS - Expert Disclosure

**[EXTERNAL]**

Counsel,

I write to inform Defendants that the *Daily News* Plaintiffs seek to share with a certain retained consultant information that Defendants have designated as “Highly Confidential – Attorneys’ Eyes Only” and “Highly Confidential – Source Code.”

The *Daily News* Plaintiffs’ consultant is Ricardo Baeza-Yates. His CV is attached. He is currently employed by Northeastern University and he has not testified as an expert at trial or by deposition in the past four years.

Best,  
Kristen



Kristen Logan (she/her)

Associate

Rothwell, Figg, Ernst & Manbeck, P.C.

901 New York Avenue, N.W., Suite 900 East

Washington, D.C. 20001

Phone: 202-624-1591

Fax: 202-783-6031

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